BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of **RENE A. LUCAS, M.D.** Holder of License No. **19775** For the Practice of Allopathic Medicine In the State of Arizona.	Board Case No. MD-05-0340A **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER** (Letter of Reprimand)

The Arizona Medical Board ("Board") considered this matter at its public meeting on May 18, 2007. Rene A. Lucas, M.D., ("Respondent") appeared before the Board with legal counsel Daniel P. Jantsch for a formal interview pursuant to the authority vested in the Board by A.R.S. § 32-1451(H). The Board voted to issue the following Findings of Fact, Conclusions of Law and Order after due consideration of the facts and law applicable to this matter.

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of License No. 19775 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-05-0340A after receiving a complaint regarding Respondent's care and treatment of a thirty-six year-old male patient ("FT"). Prior to consulting Respondent, FT had been diagnosed with hereditary neuropathy with liability to pressure palsies ("HNPP"), a demyelinating peripheral polyneuropathy. Written expert consultations available to Respondent specify that HNPP is rarely associated with pain. However, FT had undergone pain management with several different physicians in Arizona. On October 20, 2003 FT presented to Wayne State University's Charcot Marie Tooth Clinic in Detroit, Michigan where he was evaluated by a neurologist who noted FT's main symptom of significant pain was unusual in HNPP, which usually causes painless transient focal neuropathies after certain

pressure points are compressed. The neurologist recommended a reduction of opioid medications and psychotherapy, acupuncture, physical therapy and orthotics.

4. FT presented to Respondent, a physiatrist, on December 10, 2003 for coordination of outpatient physical therapy as recommended by the neurologist. Respondent's notes make no reference to his reviewing medical records and do not list previous treating physicians. Respondent's notes document FT's symptoms to be parethesias of the four extremities and weakness of the left leg with a developing foot drop; that other physicians had prescribed neurontin and antidepressants without benefit; and FT's current medications were Duragesic, Actiq, Zanaflex, Ambien, and Quinine Sulfate. Respondent did not note the dosages or prescribing physician. There is no indication in the record Respondent objectively verified FT's current medications by contacting prescribing physicians, reviewing pharmacy records, or asking for the prescription containers or that he planned to prescribe these medications.

5. On FT's January 16, 2004 follow-up visit Respondent noted he reviewed the Wayne State University work-up, but did not refer to the neurologist's recommendation to wean the medications or the observance that HNPP is generally a painless condition. On this date Respondent recommended continuing the current medications and pursuing behavioral therapy and hypnosis. Respondent referred FT to a behavioral therapist and recommended one month follow-up. Respondent made no reference to outpatient physical therapy – the stated purpose of the initial consultation. Respondent also prescribed Duragesic 100 mcg patches with instructions to apply two patches every forty-eight hours and Actiq 1200 mcg #240 with instructions to take six to eight per day. Respondent did not contact the current prescribing physician or obtain medical records. Those medical records indicated the prescribing physician had referred FT to an addiction medicine specialist for medication reduction and chronic pain management.

6. FT did not see Respondent for the next seven months, but Respondent continued to write prescriptions on a monthly basis. On March 18, 2004 Respondent prescribed Zanaflex

#90, Actiq 1600 mcg #360, maximum 12 per day, Duragesic patch 100 mcg q 12 hours, #6 boxes, Ambien 10 mg #75, 2.5 tablets q hs. Respondent did not explain the escalation of the opioid dosages. FT returned to Respondent and expressed concern about the opioid usage. Respondent recommended FT attend the in-patient pain management program at the Cleveland Clinic. FT underwent evaluation at the Cleveland Clinic. Respondent received the initial evaluation report opining FT's functional impairment was inordinate and that psychogenic pain was present. Respondent denied receiving, and admits he did not obtain, further records from the Cleveland Clinic. The discharge summary indicates FT had a past history of alcohol and illicit drug use; he had rotted seven teeth from chronic Actiq use; psychological testing was consistent with conversion disorder and somatization disorder; he had been weaned in all opioid medications, and the prognosis was poor because FT was in denial of his addictive disorder.

7. Immediately upon FT's discharge from the Cleveland Clinic Respondent resumed prescribing Actiq. A pharmacy survey revealed Respondent continued to prescribe Actiq on a monthly basis with additional early refills for over one and one-half years after FT's discharge from the Cleveland Clinic. During this same time FT was also obtaining multiple prescriptions for Actiq, Demerol, methadone, extended release morphine, immediate release morphine, Vicodin and Darvocet from no less than fourteen physicians.

8. Respondent's background in pain management consists of a three-month rotation during his residency – he did not complete a pain fellowship. Respondent's private practice is in non-surgical orthopedics. Respondent's objective reasoning for FT's foot drop was muscle weakness anterior tibialis due to neuropathy. At FT's first visit Respondent had no records of any of FT's treating physicians and relied solely on what FT told him. At FT's second visit he presented the Wayne State evaluation that included all the medications he was on. Respondent did not prescribe physical therapy because FT had been to multiple clinics and tried physical therapy many times, and was well versed in his own exercise program and did not want physical

therapy. Respondent also decided against providing FT with orthotics. Respondent did not provide FT with a posterior leg brace because he believed a brace would only have resulted in the muscles getting weaker. Although FT presented for physical therapy and orthotics Respondent elected to treat him for his pain symptoms symptomatically. Respondent did not execute a pain contract with FT.

9. Respondent received the Cleveland Clinic's initial evaluation with the number one diagnosis of HNPP and number two diagnosis of possible chemical dependency. Respondent maintained he never received the discharge summaries. Respondent typically sees a pain patient every month, but with FT there was a seven month interval between visits during which Respondent continued prescribing. Respondent relied on his office staff and medical assistant who gave him FT's self-report that he was doing fine with no problems. Respondent prescribed Duragesic at q 12 hour intervals in an effort to provide FT with an adequate supply of Duragesic when FT went out of town, while at the same time complying with pharmacy and insurance requirements. Respondent's understanding was even though the prescription was written for replacing the patch q 12 hours over a thirty-day period, FT would replace the Duragesic patch at q 48-72 hour intervals and each prescription would then last for a three month period. In effect Respondent wrote a prescription to condense three months worth of a controlled substance into a one month prescription. Respondent indicated he has currently instituted all of the Board's pain management guidelines.

10. The Wayne State recommendations included a multidisciplinary pain management program; decrease FT's reliance on narcotics; decrease his pain; get him into a behavioral setting; consider the possibility of orthotics to help his balance in walking and his pain, and consider physical therapy. Yet, Respondent was going in the opposite direction and reinforcing more and more medication to treat FT's pain. Respondent does not treat a lot of pain patients and received a recommendation from a facility that does, yet he decided the facility's

recommendations were not valid even though some of them were made by the facility's own physiatrist. Respondent does not currently treat chronic pain patients who require narcotics.

11. According to Respondent, when FT returned from the Cleveland Clinic he told Respondent he was on Keppra, Cymbalta, Motrin and transmucosal Fentanyl. FT related he had been at the clinic for two weeks and it seemed highly unlikely to Respondent that given the high doses of transmucosal Fentanyl and Actiq that FT was on, they would be able to get him off the medications completely so he believed FT. Respondent's goal, therefore, turned to getting FT into another pain management clinic that would be more effective than the Cleveland Clinic.

12. The standard of care required Respondent to review available medical records and drug history prior to the initial prescribing of opioids for chronic non-malignant pain.

13. Respondent deviated from the standard of care because he did not review available medical records and drug history prior to the initial prescribing of opioids for chronic non-malignant pain.

14. The standard of care required Respondent to review and consider the results of a requested specialist's consultation.

15. Respondent deviated from the standard of care because he did not review and consider the entire results of the requested Cleveland Clinic evaluation.

16. Respondent's conduct perpetuated FT's addiction.

CONCLUSIONS OF LAW

1. The Arizona Medical Board possesses jurisdiction over the subject matter hereof and over Respondent.

2. The Board has received substantial evidence supporting the Findings of Fact described above and said findings constitute unprofessional conduct or other grounds for the Board to take disciplinary action.

3. The conduct and circumstances described above constitutes unprofessional conduct pursuant to A.R.S. § 32-1401(27)(k) ("[s]igning a blank, undated or predated prescription form"); A.R.S. § 32-1401(27)(q) ("[a]ny conduct or practice that is or might be harmful or dangerous to the health of the patient of the public"); and A.R.S. § 32-1401(27)(ll) ("[c]onduct that the board determines is gross negligence, repeated negligence or negligence resulting in harm to or the death of a patient.").

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law,

IT IS HEREBY ORDERED:

Respondent is issued a Letter of Reprimand for failing to recognize addictive behavior, for failing to obtain medical records of prior treating physicians, for prescribing Duragesic patches in a manner that circumvented the rules for prescribing and that was equivalent to pre-dating, and for signing an undated prescription.

RIGHT TO PETITION FOR REHEARING OR REVIEW

Respondent is hereby notified that he has the right to petition for a rehearing or review. The petition for rehearing or review must be filed with the Board's Executive Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The petition for rehearing or review must set forth legally sufficient reasons for granting a rehearing or review. A.A.C. R4-16-103. Service of this order is effective five (5) days after date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

Respondent is further notified that the filing of a motion for rehearing or review is required to preserve any rights of appeal to the Superior Court.

DATED this 10th day of August 2007.

THE ARIZONA MEDICAL BOARD

By _____
TIMOTHY C. MILLER, J.D.
Executive Director

ORIGINAL of the foregoing filed this 10th day of August, 2007 with:

Arizona Medical Board
9545 East Doubletree Ranch Road
Scottsdale, Arizona 85258

Executed copy of the foregoing mailed by U.S. Mail this 10th day of August, 2007, to:

Daniel P. Jantsch
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Rene A. Lucas, M.D.
Address of Record

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